IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5746 OF 2005

Shree Sharada Sahakari Bank Ltd. : Petitioner
(Orig. Disputant)

V/s.

M/s.Ultra Paints Pvt. Ltd. & Anr. : Respondents
(Orig. Opponents)

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Mr.S.S. Kshirsagar for the petitioner.

None present for the respondents.

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CORAM : S.A. BOBDE, J.

September 2, 2005.

P.C.:

1. The petitioner has challenged the order of the Maharashtra State Co-operative Appellate Court (Mumbai) Bench, Pune. By the order in appeal, the appellate Court has upheld the order passed by the Judge, Co-operative Court, refusing the Bank's application for attachment before judgement and injunction.

2. It appears that the Bank has advanced a loan to the respondent-company and has filed a dispute under section

91 for recovery of its alleged dues. In that dispute, the Bank applied for attachment before judgement. This application was rejected on the ground that the petitioner-Bank has merely expressed an apprehension that on reliable information, without disclosing what the said reliable information is, there is a vague statement that the respondents are likely to transfer the property. It is a settled law that an application for attachment before judgement which has serious consequences on the owners of the property sought to be attached cannot be granted for the asking, without the Court being satisfied that the Opponent is likely to take some steps to part with the property in order to defeat the claim of the creditor. In the present case, the Courts below have concurrently found that the petitioner alleged mere apprehension without making out a case that the respondents are likely to dispose of the property with an intention to defeat the decree that may be passed against them.

3. In this view of the matter, there is no merit in the petition which is hereby dismissed.

S.A. BOBDE, J.